



California State Board of Education Policy

POLICY #
02-02
DATE
September 2002

WAIVER GUIDELINES

Federal Waiver – Supplemental Educational Services Under NCLB

REFERENCES: Authority:

“No Child Left Behind Act” (NCLB) Title I, Part A, Section 1116 (e)(10)(A)

HISTORICAL NOTES

2002 HR 1 “No Child Left Behind” authorized several waivers to be approved by the “SEA”

Federal Section(s) involved:

“No Child Left Behind Act” (NCLB) Title I, Part A, Section 1116 (e): Supplemental Educational Services, the local educational agency (LEA) serving such school shall, subject to this subsection, arrange for the provision of supplemental educational services to eligible children in the school from a provider with a demonstrated record of effectiveness, that is selected by the parents and approved for that purpose by the State educational agency (SEA) in accordance with reasonable criteria...that the SEA shall adopt.

Federal Waiver Authority:

NCLB Title I, Part A, Section 1116 (e)(10)(A): At the request of a LEA, a SEA may waive, in whole or in part, the requirement of this subsection to provide supplemental educational services if the SEA determines that-- (i) none of the providers of those services on the list approved by the SEA....makes those services available in the area served by the LEA or within a reasonable distance of that area; and (ii) the LEA provides evidence that it is not able to provide those services.

Background:

The NCLB Act of 2001 requires districts with Program Improvement schools in years 2 and above under NCLB to provide supplemental services (tutoring and enrichment educational services) to low income students furthest away from meeting academic standards. Parents select a provider of services from a State Board of Education approved list of service providers.

Waiver Guidelines/Criteria

At the request of a district, the SEA may waive in whole or in part, the requirement to provide supplemental services. The law specifies that the SEA can approve a waiver from a district based on information that:

- No provider of services on the state approved list makes those services available in the area served by the district or within a reasonable distance **and**
- The district provides evidence that it is not able to provide the services.

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1430 N Street, Room 5111
Sacramento, California 95814
(916) 319-0827
(916) 319-0118 (fax)



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Required Documentation:

Since the State Board of Education's authority to grant a waiver is based on these two grounds, a waiver request must address these three issues:

1. Is there a provider of services on the state approved list that makes those services available in the area served by the district or within a reasonable distance? Provide a copy of the current list of providers and the reason the district determined each provider could not be used in their area. The burden is on the district to show that any time or distance is unacceptable or unreasonable.
2. If there is an "internet link" provider on the state approved list? Provide information as to why the district cannot use distance learning technologies, e-learning, online or distance learning to make available supplemental educational services to eligible students.
3. Is there a reason the district did not apply to become a Supplemental Service provider? Provide evidence why the district is not able to provide the services.

Period of Request:

Waivers will be granted for a maximum of one year and will be terminated in June of the school year in which the waiver was granted.

Notification: (Reference: NCLB Title I, Part A, Section 1116 (e)(10)(B))

The CDE Waiver Office will provide notice within 30 days of receipt of the LEA's "completed" request for a waiver and whether the request is approved or disapproved and, if disapproved, the reasons for the disapproval. There is a **Special Calendar** for receipt of these waivers available at: www.cde.ca.gov/waiver/